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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,938	09/12/2000	Tianmei Ouyang	LIFE-007	6167

7590 12/17/2001

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EXAMINER

LEARY, LOUISE N

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 12/17/2001

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,938

Applicant(s)

OUYANG ET AL.

Examiner

Louise N. Leary

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-27 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) ✓
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: LC

1. Claims 1-27 are pending in this application.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banauch et al (US 3,964,974).

Banauch et al disclose a composition of matter comprising a substrate and a tetrazolium salt. Also, Banauch et al disclose paper and cellulose as widely used substrate. Banauch et al further disclose the substrates are impregnated solutions containing glucose dehydrogenase, tetrazolium and a buffer system. See column 8, lines 14-61. Thus, Banauch et al disclose or suggest the composition of matter claimed except for describing the substrate as a bibulous substrate.

However, it is noted that persons having ordinary skill in this art routinely used paper or cellulose as a bibulous substrate in compositions of matter comprising water soluble tetrazolium. Additionally, Banauch et al disclose a composition of matter comprising a substrate and a tetrazolium salt. Note column 8, lines 14-61.

Hence, Banauch et al disclose or suggest the composition claimed except for describing the substrate in the composition of matter as a bibulous substrate. Yet, the

use of paper or cellulose as a bibulous substrate was well known in this art at the time this invention was made and Banauch et al disclosed the use of a composition of matter comprising a paper or cellulose substrate and a tetrazolium salt. Therefore, the Banauch et al disclosure renders obvious the composition of matter claimed.

It would have been obvious to one having ordinary skill in this art at the time this invention was made to provide a composition of matter as claimed because Banauch et al disclose or suggest the composition claimed except for describing the substrate in the composition of matter as a bibulous substrate, but, Banauch et al disclosed the use of a composition of matter comprising a paper or cellulose substrate and a tetrazolium salt and the use of paper or cellulose as a bibulous substrate was well known in this art at the time this invention was made which renders obvious the composition of matter claimed.


3. Claims 3-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 10-27 are allowable over the prior art of record.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louise N. Leary whose telephone number is (703) 308-3533. The examiner can normally be reached on Monday to Friday from 9:30 to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Geist, can be reached on (703) 308-1701. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



LOUISE N. LEARY
PRIMARY EXAMINER

December 16, 2001